

1

AO88 (Rev. 12/06) Subpoena in a Civil Case

Issued by the
UNITED STATES DISTRICT COURT

DISTRICT OF New Jersey

BOSTON SCIENTIFIC CORPORATION and
BOSTON SCIENTIFIC SCIMED, INC.

SUBPOENA IN A CIVIL CASE

V.
CONOR MEDSYSTEMS, INC.

Case Number:¹
Civil Action No. 05-768 (SLR)
District of Delaware

TO: Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ 08933

- ☐ YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

- ☒ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION Hyatt Regency — 2 Albany Street, New Brunswick, NJ 08901 See Schedule A.	DATE AND TIME February 13, 2007 at 10:00a
--	--

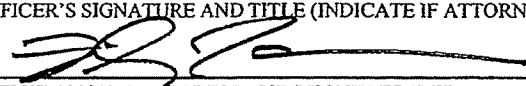
- ☐ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

PLACE	DATE AND TIME
-------	---------------

- ☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME
----------	---------------

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT) 	DATE February 2, 2007
ISSUING OFFICER'S NAME ADDRESS AND PHONE NUMBER Timothy K. Gilman, Kirkland & Ellis LLP, 153 East 53rd Street, New York, NY 10022 (212) 446-4800	

(See Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), on next page)

¹ If action is pending in district other than district of issuance, state district under case number.

AO88 (Rev. 12/06) Subpoena in a Civil Case

PROOF OF SERVICE

DATE

PLACE

SERVED

SERVED ON (PRINT NAME)

MANNER OF SERVICE

SERVED BY (PRINT NAME)

TITLE

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on

DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), as amended on December 1, 2006:

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection, copying, testing, or sampling of designated electronically stored information, books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection, copying, testing, or sampling may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to producing any or all of the designated materials or inspection of the premises — or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect, copy, test, or sample the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production, inspection, copying, testing, or sampling. Such an order to compel shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection, copying, testing, or sampling commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance;

(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held;

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject

to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) (A) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which the person ordinarily maintains it or in a form or forms that are reasonably usable.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) (A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial-preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information is produced in response to a subpoena that is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, it must take reasonable steps to retrieve it. The person who produced the information must preserve the information until the claim is resolved.

(e) CONTEMPT. Failure of any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued. An adequate cause for failure to obey exists when a subpoena purports to require a nonparty to attend or produce at a place not within the limits provided by clause (ii) of subparagraph (c)(3)(A).

SCHEDULE A

TOPICS OF EXAMINATION

TOPIC NO. 1:

The design history of the FDA-approved Bx Velocity stent, including all design iterations and prototypes.

TOPIC NO. 2:

The performance and attributes of the Bx Velocity stent design iterations and prototypes.

TOPIC NO. 3:

The performance and attributes of the FDA-approved Bx Velocity stent and how they compare to the performance and attributes of any Bx Velocity design iteration or prototype.

TOPIC NO. 4:

Cordis' decision to seek to commercialize the design of the Bx Velocity stent that was later approved by the FDA, including the reasons for Cordis' decision.

TOPIC NO. 5:

The performance and attributes of the BX stent and how they compare to the performance and attributes of the FDA-approved Bx Velocity stent.

TOPIC NO. 6:

Cordis' decision not to seek to commercialize the BX stent, including the reason for Cordis' decision.

TOPIC NO. 7:

The authenticity of the documents attached hereto as Exhibit A and whether they were kept in the ordinary course of business.

DEFINITIONS

1. As used herein, "Cordis" shall mean Cordis Corporation and all of its corporate parents, corporate predecessors and past or present subsidiaries, affiliates, divisions, departments, officers, directors, principals, agents and employees.

2. As used herein, "Bx Velocity stent" shall mean any stent made, used, sold, offered for sale, or imported into the United States by Cordis in which the words "Bx Velocity" constitute all or part of the trademark or name, including any commercial, developmental, working or non-working model, or any prototype of any of the foregoing.

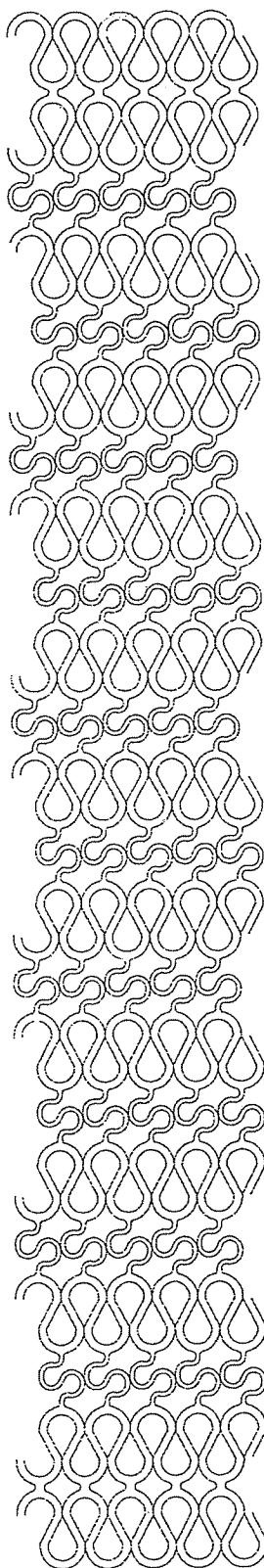
3. As used herein, "BX stent" shall mean the stent designed by Isostent and described in, for example, Chapter 21 of *The Handbook of Coronary Stents* (2d edition 1998), including any commercial, developmental, working or non-working model, or any prototype of any of the foregoing.

4. As used herein, "include" and "including" shall be construed to mean "without limitation," so as to acquire the broadest meaning possible.

EXHIBIT A

REVISIONS
ZONE REV DESCRIPTION DATE APPROVED

THIS DRAWING REFLECTS DIMENSIONS AFTER ELECTROPOLISHING



LENGTH=27mm

0.226" (circumference)
0.72 mil O.D.

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DRAWN BY: R. [illegible]
DATE: April 23, 1998

APPROVED BY: [illegible]
DATE: [illegible]

FINISH: ELECTROPOL. SHED
NEXT ASSY: [illegible]

SIZE: A
SCALE: XXX

FILE NAME: C27-13x5-J
PART NUMBER: [illegible]
DATE: [illegible]

REV: A
SHEET: [illegible]

BSC-C 0168824

HIGHLY
CONFIDENTIAL

J K HIGHLY CONFIDENTIAL

Stent Parameters

Stent Length: 275 mm
 Stent Diameter: 10 mm
 Stent Wall Thickness: 5 mil

5 mil wall thickness

REVISIONS

APPROVED

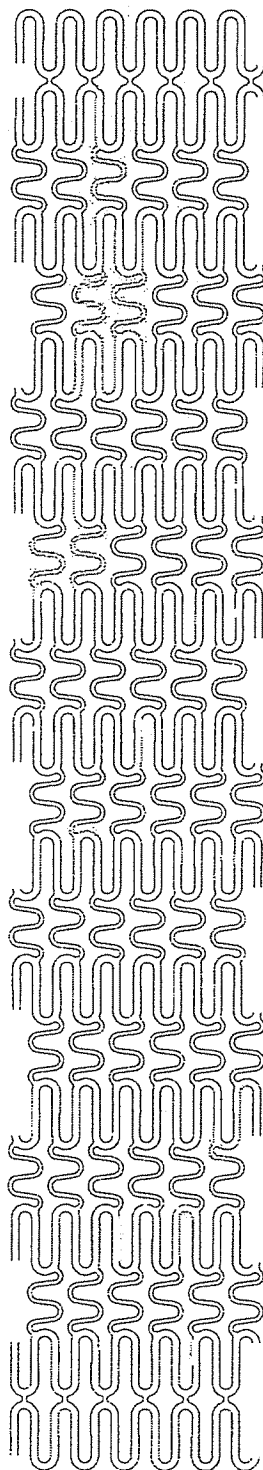
DATE

DESCRIPTION

REV

ZONE

MIL DD (58 mil DD Taping)



275 mm long

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XX = ±.01
 XXX = ±.001
 .XXXX = ±.0005
 FRACTION = ±1/32
 ANGULAR = ±1/2°

MATERIAL

04610 x .006 wall 315L VM

FINISH: ELECTROPOLISHED

APPROVED BY:

NAME

DATE

DATE APPROVED

NEXT ASSY

SCALE

XXX

DATE

SHEET

PART NUMBER

PN *****

REV

A

DMNI6_27_A

SIZE

A

FILE NAME

71 Riverlawn Drive
 Fair Haven, NJ 07704
 TEL: 732.758.9122

CONFIDENTIAL

HIGHLY

CONFIDENTIAL

BSC-C 0168826

DRAWN BY:

DATE

7/15/98

BSC-C 0168827

HIGHLY
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Stent Parameters

5 mil wall thickness

REVISED

DESCRIPTION

DATE

APPROVED

57 mil OD (58 mil OD Tubing)

8.4 mm long

13 mm long

17.6 mm long

22.1 mm long

26.7 mm long

THIS DRAWING REFLECTS DIMENSIONS AFTER ELECTROPOLISHING

CONFIDENTIAL

UNLESS OTHERWISE SPECIFIED

ALL DIMENSIONS ARE IN INCHES

AND TOLERANCES ARE

XX ± .01

XX ± .001

XX ± .0005

XX ± .0001

XX ± .00005

XX ± .00001

XX ± .000005

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OF BSC AND ARE TO BE

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UPON REQUEST

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ANY MEANS WITHOUT

THE WRITTEN

PERMISSION OF

BSC

BY CLINIC IS PROHIBITED

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DATE

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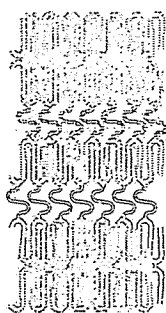
6/13/98

BSC-C 0168829

HIGHLY
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Stent Parameters

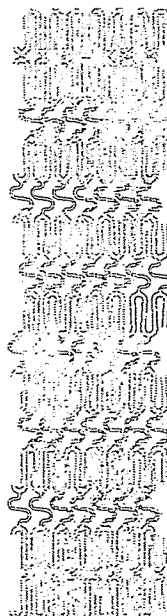
5 mil wall thickness



91 mm long



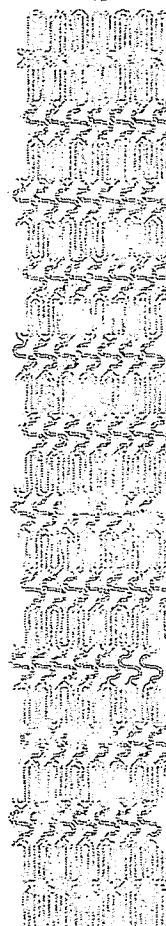
138 mm long



186 mm long



232 mm long



281 mm Long

57 mil OD (58 mil OD Tubing)

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CHECKED BY: DATE: 6/15/98
APPROVED BY: NAME: DATE: 6/15/98

UNLESS OTHERWISE SPECIFIED, DIMENSIONS ARE IN INCHES. TOLERANCES ARE: XX ± .001, XXX ± .001, XXXX ± .001. FRACTION = 1/16". ANGULAR = 1/2°.

FISCHER BIONTECH, INC.

71 River Street, Suite 200
Hudson, NJ 07630-1000
Tel: (201) 746-7400

BX MIDLG FAMILY OF STENTS
SIZE: 316L
FINISH: ELECTROPOLISHED
PART NUMBER: 04073500
REV: A

SHEET

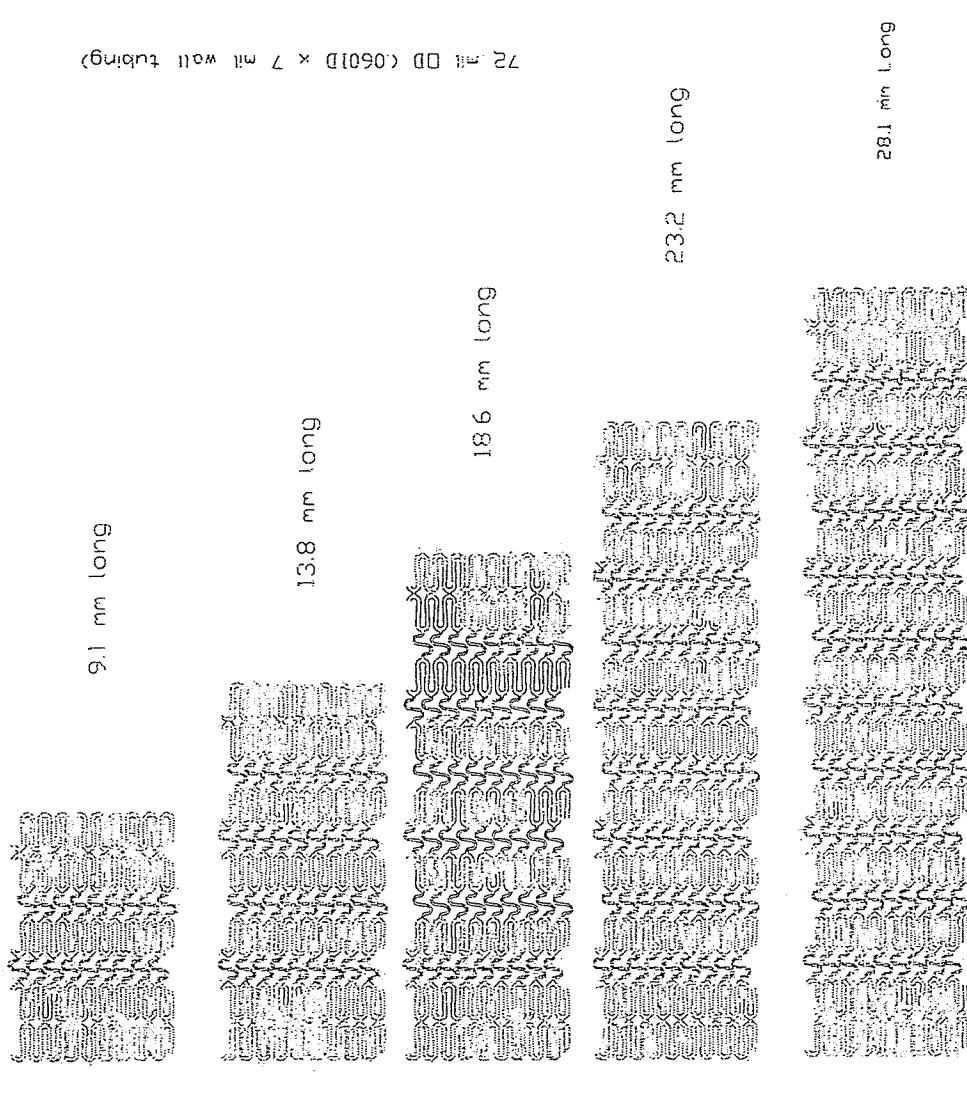
BSC-C 0168830

HIGHLY
CONFIDENTIAL

Stent Parameters

5 mil wall thickness

REV	DESCRIPTION	DATE	APPROVED
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THIS DRAWING REFLECTS DIMENSIONS AFTER ELECTROPOLISHING

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UNLESS OTHERWISE SPECIFIED
DIMENSIONS ARE IN INCHES
TOLERANCES ARE:
XXX .001
XXX .005
XXX .010
XXX .015
XXX .020
XXX .030
XXX .040
XXX .050
XXX .060
XXX .070
XXX .080
XXX .090
XXX .100
XXX .125
XXX .150
XXX .175
XXX .200
XXX .250
XXX .300
XXX .350
XXX .400
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XXX .750
XXX .812
XXX .875
XXX .938
XXX 1.000
XXX 1.125
XXX 1.250
XXX 1.375
XXX 1.500
XXX 1.625
XXX 1.750
XXX 1.875
XXX 2.000
XXX 2.125
XXX 2.250
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XXX 2.500
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XXX 9.500
XXX 9.625
XXX 9.750
XXX 9.875
XXX 10.000

DATE: 6/15/00

CHECKED BY: J. R. F. 1/25/00

APPROVED BY: NAME

DATE APPROVED: DATE

DATE: 6/15/00

SCALE: 1:1

SHEET: 1

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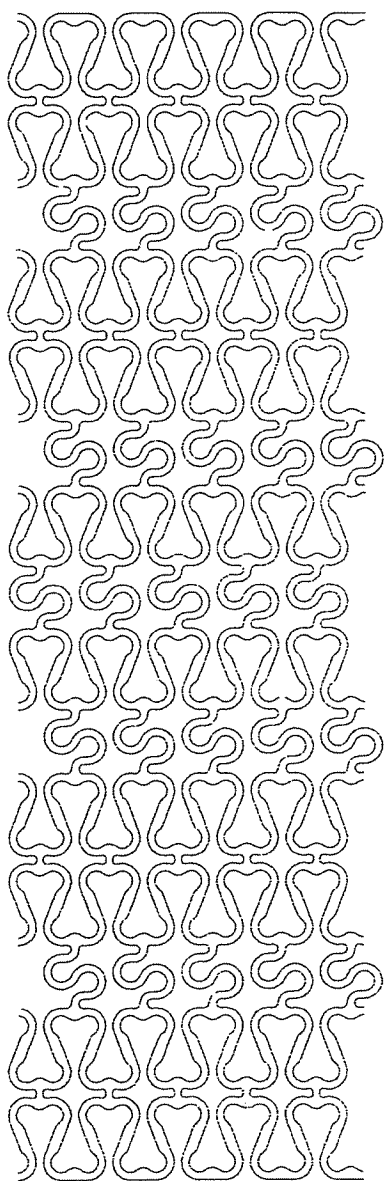
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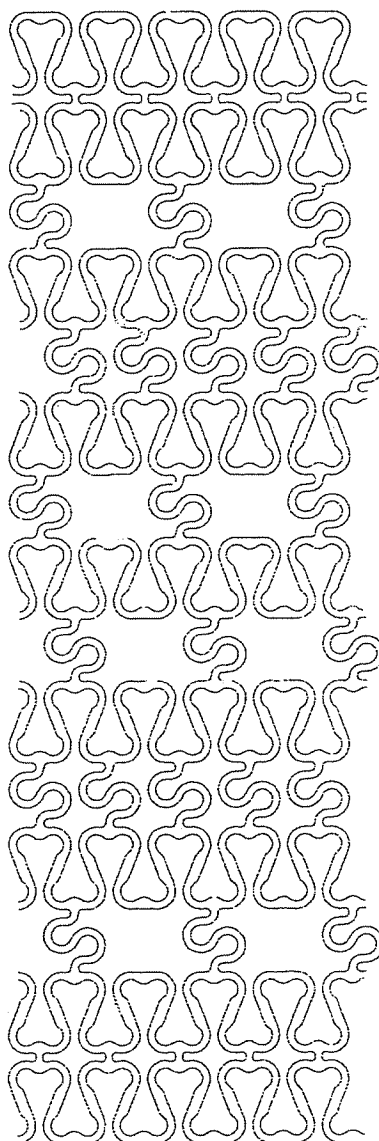
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CURRENT BX



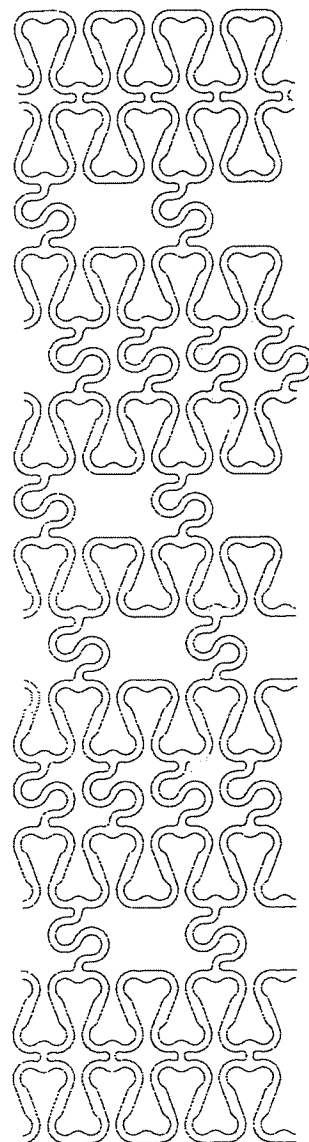
BX ULTRAFLEX5



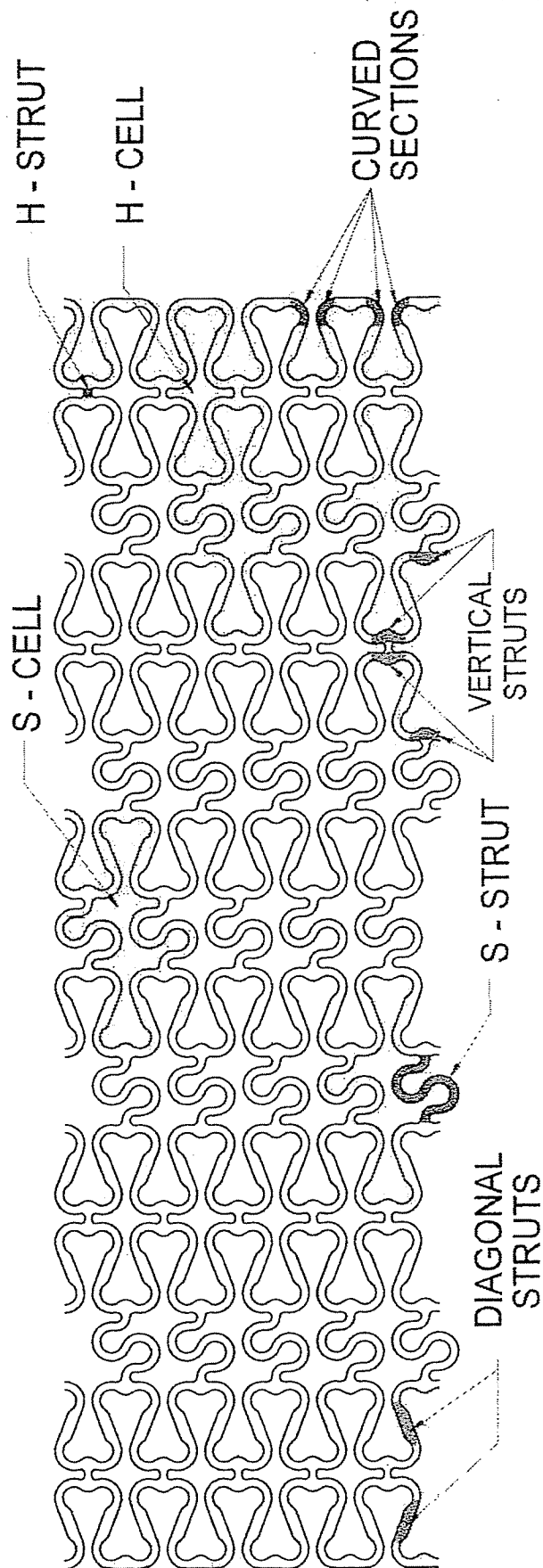
BX ULTRAFLEX4

BSC-C 0168831

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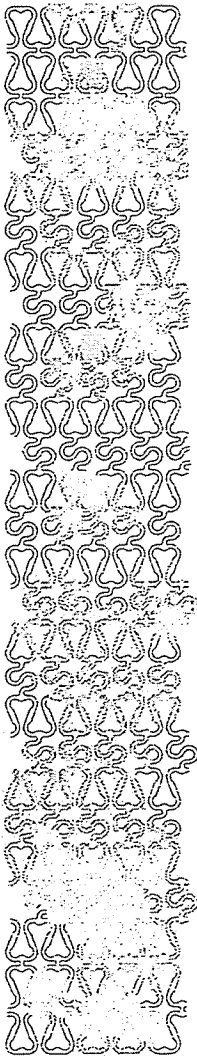
PRE - DEPLOYED BX STENT (15 mm Long)



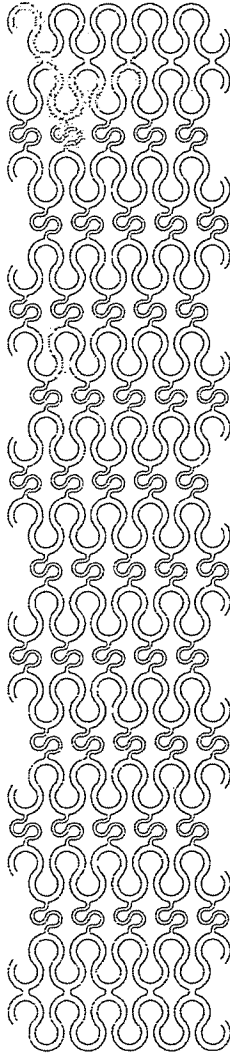
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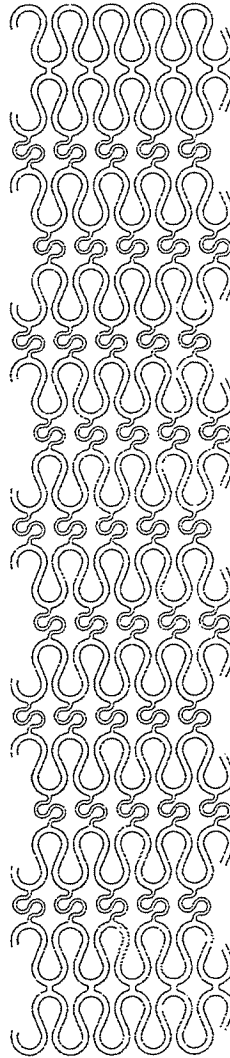
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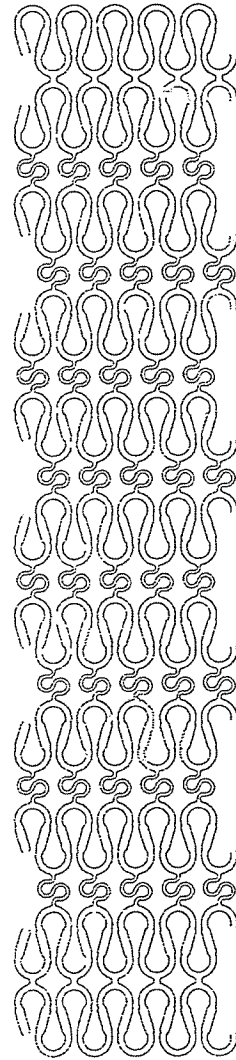
BX OMNI_C



BX OMNI_B



BX OMNI_A



BSC-C 0168833

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REVISIONS		DESCRIPTION	DATE	APPROVED
ZONE	REV			
<p>UNLESS OTHERWISE SPECIFIED DIMENSIONS ARE IN INCH AND TOLERANCES ARE</p> <p>XX ±.01 XXX = ±.001 XXXX = ±.0005 FRACTION 1/16 ANGULAR 1/2°</p> <p>MATERIAL 316L VM SS, 0.065\"OD/0.005\"TW</p> <p>FINISH ELECTROPOLISHED</p>				
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<p>DRAWN BY D. R. Fischell</p>		<p>CHECKED BY DATE</p>		<p>APPROVED BY DATE</p>
<p>DATE March 16, 1998</p>		<p>DATE March 16, 1998</p>		<p>DATE March 16, 1998</p>

71 Riverlawn Drive
Fair Haven, NJ 07704
TEL. (732) 758-9574

C25-12X5_B

SIZE FILE NAME
A bxomni_b.skd

PART NUMBER
PN *****

DATE March 16, 1998 SHEET

BSC-C 0168834

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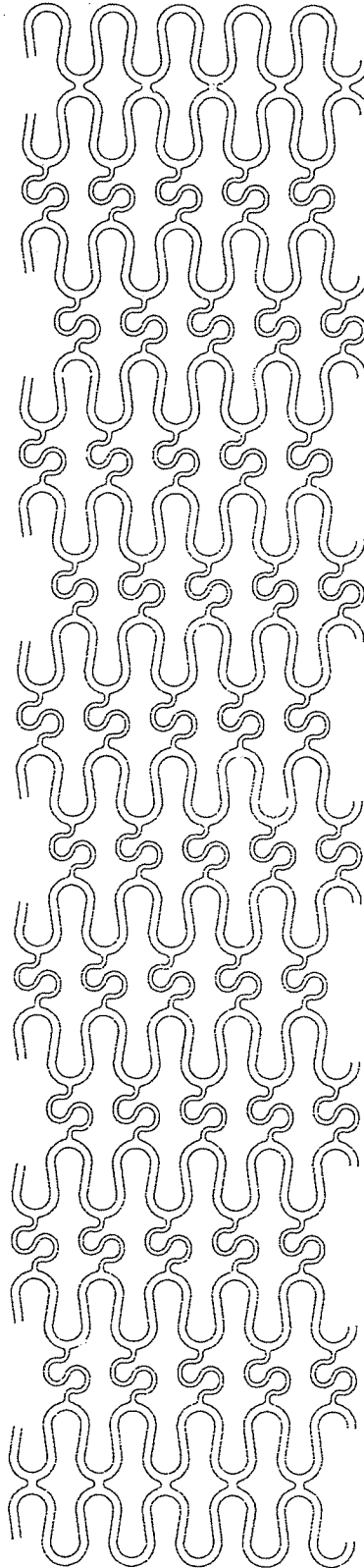
Stent Parameters

Stent Wt 0.0012 gms
 Stent L 10 mm
 Stent ID 0.0012 gms
 Stent OD 0.0012 gms

REVISIONS		
ZONE	REV	DESCRIPTION

APPROVED

DATE



LENGTH=27mm

0.226" Circumference
 (72 mil OD)

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 AND TOLERANCES ARE
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 XXXX = ±.0005
 FRACTION = 1/32
 ANGULAR = 1/2°

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CHECKED BY: [blank]
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PART NUMBER: [blank]
 REV: A

REV: A

APR 23 1998

DATE APPROVED

NEXT ASSY

SCALE XXX

DATE

SHEET

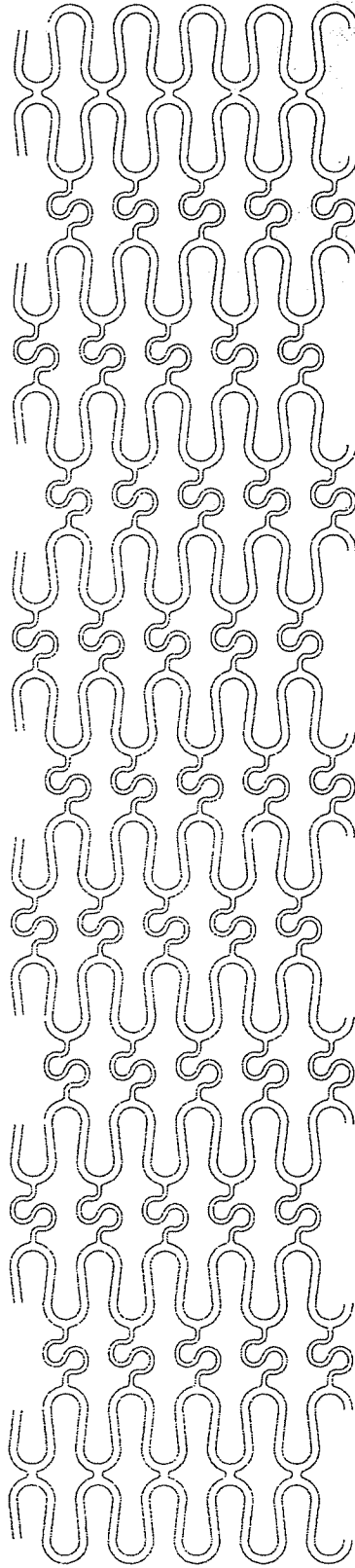
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BSC-C-0168835

REVISIONS		DESCRIPTION		DATE		APPROVED	
ZONE	REV						

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Length = 271mm

0.226" Circumference
(72 mil O.D.)

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XX ± .01
XXX ± .001
XXXX ± .0005
FRACTION = 1/32
ANGULAR = 1/2°

SIZE FILE NAME
A C27-12x5_I

REV A
PART NUMBER
PN XXXXXXXXXX

0.226" Circumference
(72 mil O.D.)

CONFIDENTIAL

DRAWN BY: [Name]
DATE: April 23, 1998

CHECKED BY: [Name]
DATE: [Date]

APPROVED BY: [Name]
DATE: [Date]

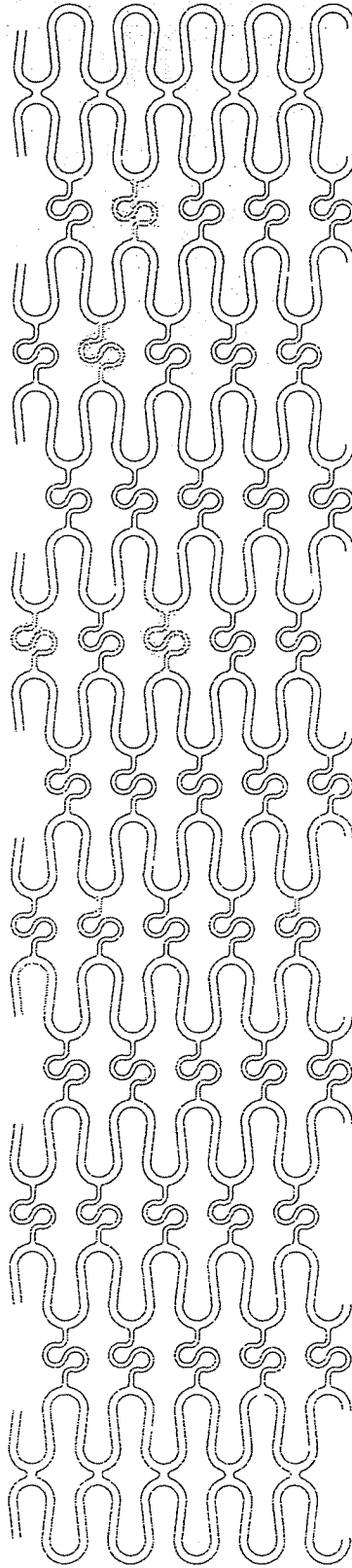
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SCALE: XXX
NEXT ASSY: [Name]

DATE: [Date]
SHEET: [Number]
REV: A

HIGHLY CONFIDENTIAL
BSC-C-0168836

REVISIONS
ZONE REV DESCRIPTION DATE APPROVED

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Length = 271mm

0.2226" Circumference
(72 mil. OD)

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AND TOLERANCES ARE
XX ± .01
XXX ± .001
XXXX ± .0005
FRACTION = 1/32
ANGULAR = 1/2°

DRAWN BY
U R FIEDER
DATE
April 22 1998

CHECKED BY
NAME
DATE
APPROVED

MATERIAL
316L VLN SS. 0074101/0306714W
FINISH
ELECTROPOLISHED

SIZE FILE NAME
A

PART NUMBER
PN XXXXXXXXX

REV
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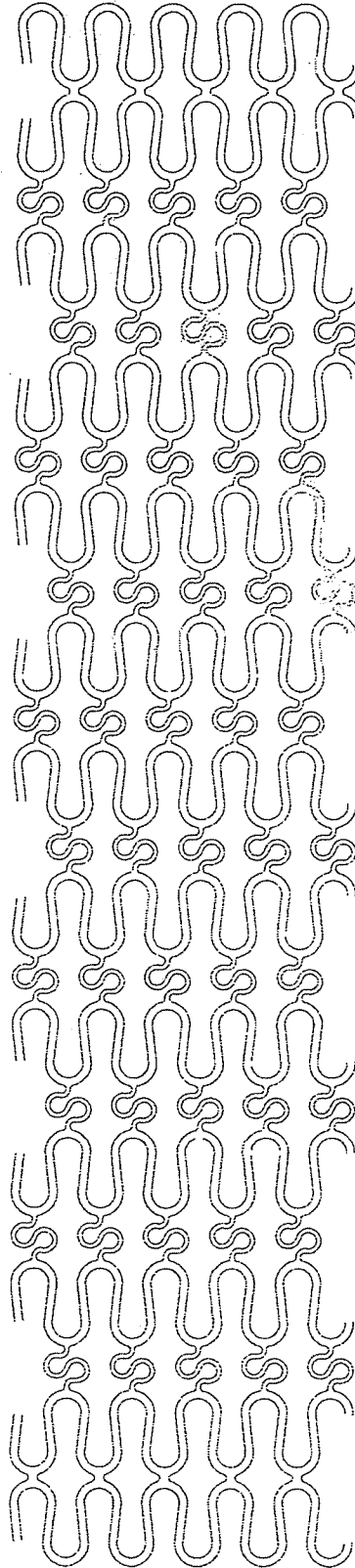
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BSC-C 0168837

SHEET

Stent Parameters

REVISIONS		DESCRIPTION		DATE		APPROVED:	
ZUNE	REV						



0.226" Circumference
(72 mil OD)

Length = 271mm

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UNLESS OTHERWISE SPECIFIED DIMENSIONS ARE IN INCH AND TOLERANCES ARE:

XX ± .01
XXX ± .001
XXXX ± .0005
FRACTION ± 1/32
ANGULAR ± 1/2°

MATERIAL 316L VM SS .0074"OD/.007"TW
FINISH: ELECTROPOLISHED

CHECKED BY: _____
DATE: _____

APPROVED BY: _____
DATE: _____

SIZE FILE NAME
A

PART NUMBER
PN xxxxxxxxxx

REV
A

DATE: April 22, 1998

NEXT ASSY

SCALE: XXX

DATE:

SHEET

BSC-C-0168838

HIGHLY
CONFIDENTIAL

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CONFIDENTIAL

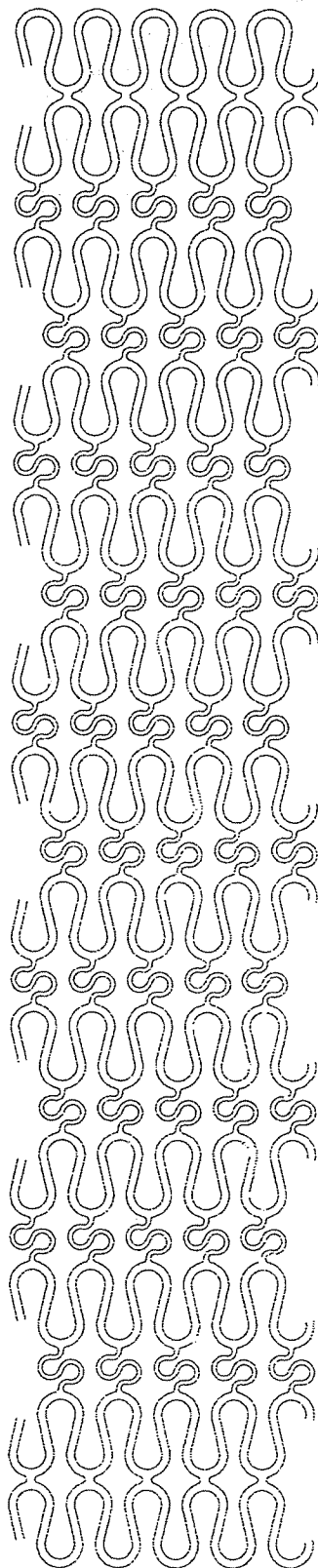
C27-13x5_G

7. 0.001" Wt. Lim.
FOR HOV-6 NJ 07/04
7. 0.001" Wt. Lim.

Stent Parameters

REVISIONS DESCRIPTION DATE APPROVED

ZONE REV



Length = 271mm

0.198" Circumference
(0.063" ID)

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XX = ±.01
XXX = ±.001
XXXX = ±.0005
FRACTION = 1/32
ANGULAR = 1/2°

MATERIAL: JIGEL VM ES. 0074/00/0071W
FINISH: ELECTROPOLISHED

DRAWN BY: [Signature]
DATE: April 29, 1998

CHECKED BY: [Signature]
DATE: [Blank]

APPROVED BY: [Signature]
DATE: [Blank]

SIZE: FILE NAME: A

PART NUMBER: PN XXXXXXXXXX

REV: A

April 29, 1998

DATE APPROVED

ME X1 ASSY

SCALE: XXX

Part

SHEET

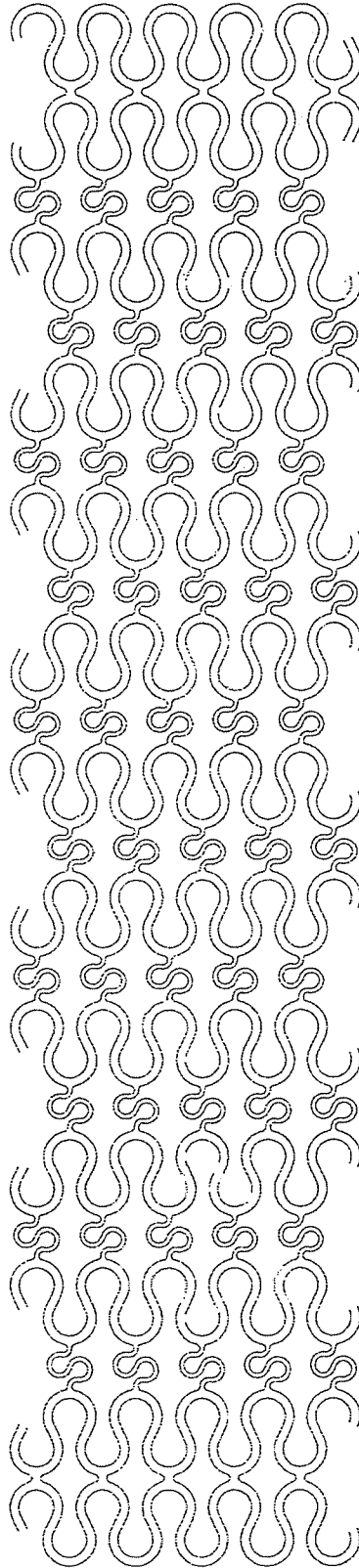
HIGHLY

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REVISIONS
ZONE REV DESCRIPTION DATE APPROVED

THIS DRAWING REFLECTS DIMENSIONS AFTER ELECTROPOLISHING



Length = 2/1mm

0.226" Circumference
(72 MIL DD)

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XX = +.01
XXX = +.001
XXXX = ±.0005
FRACTION = 1/32
ANGULAR = 1/2°
MATERIAL 316L VM SS. 0074/00/00/00/00
FINISH: ELECTROPOLISHED

SIZE FILE NAME
A C25F.dxf

PART NUMBER: PN *XS*XXX*F*F
C25-13x5_F

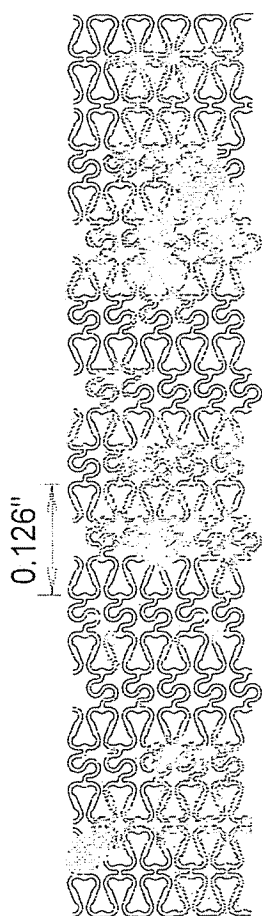
REV A

DRAWN BY: C. C. F. 1000
DATE: April 20, 1998

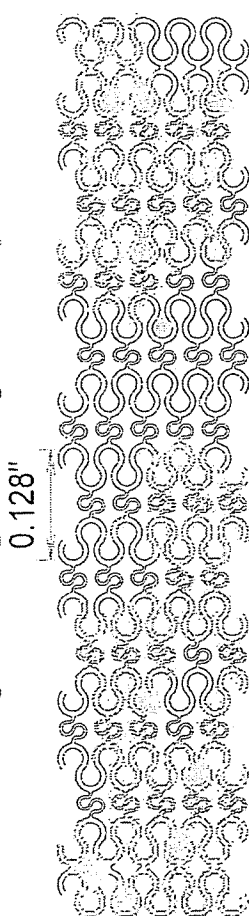
CHECKED BY: NAME
DATE APPROVED

SCALE XXX DATE SHEET
NEXT ASSY

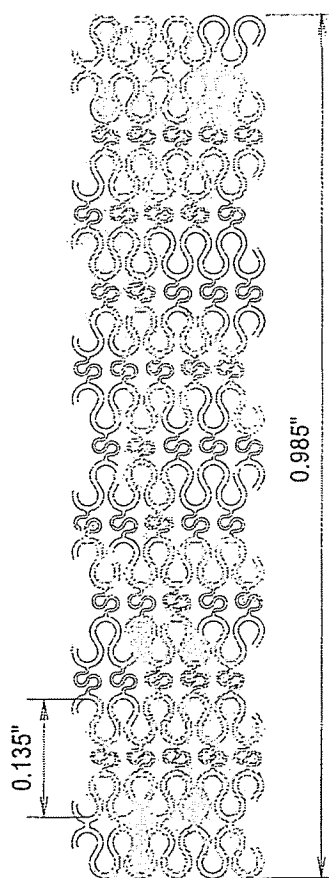
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BSC-C 0168840



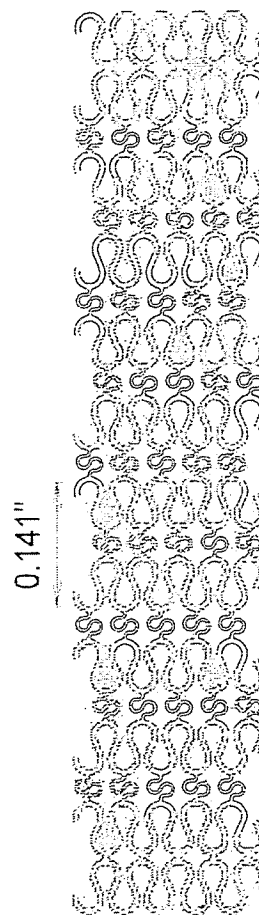
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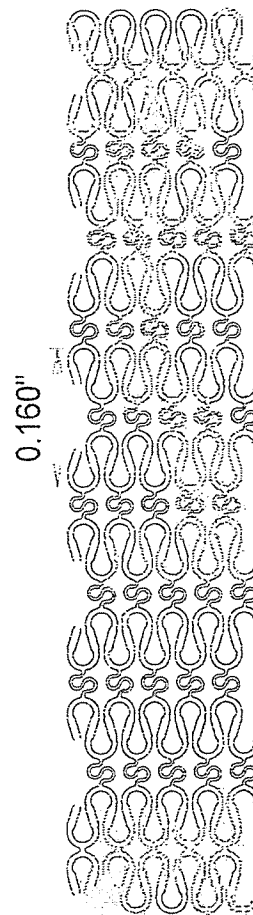
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BX OMNI_D



BX OMNI_B

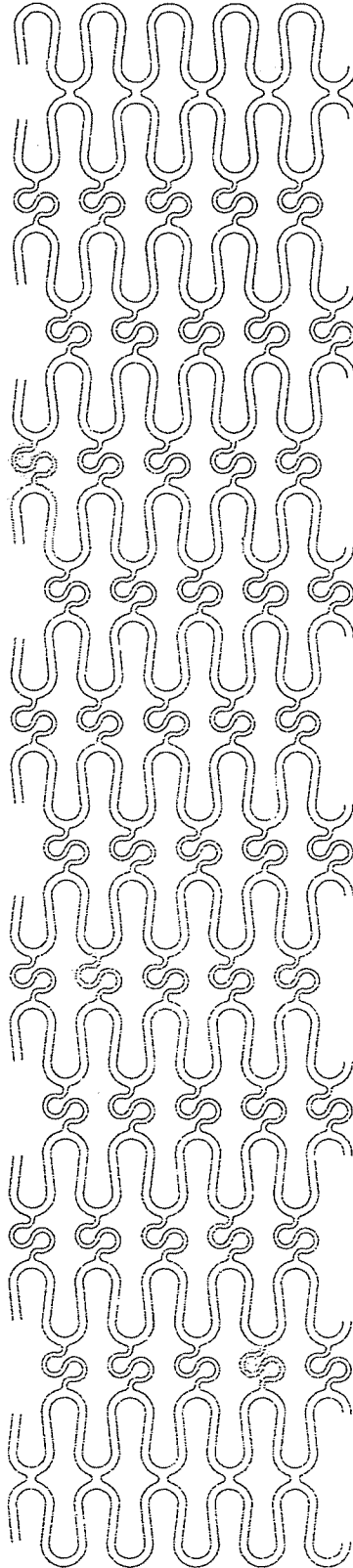


BX OMNI_A

BSC-C 0168841
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Stent Parameters

REVISIONS		
ZONE	REV	DESCRIPTION
		DATE
		APPROVED



0.226" Circumference
(72 mil OD)

Length = 271mm

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AND TOLERANCES ARE
XX ± .01
XXX ± .001
XXXX ± .0005
FRACTION = 1/32
ANGULAR = 1/2°

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C27-13x5_G

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TOP SECRET NO 077-2
101 0730 708-9574

DRAWN BY D R FINE	CHECKED BY NAME	APPROVED BY DATE	DATE April 22, 1998
FINISH: ELECTROPOLISHED	SIZE A	FILE NAME A	SCALE XXX
MATERIAL 316L VM SS 0074/00/0007LW	PART NUMBER PN XXXXX-XXXXX	REV A	SHEET A

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-BSC-C-0168842

DEPLOYED BX STENT

(15 mm Long)

